



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

# The City of Morgantown

389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
(304) 284-7431 TDD (304) 284-7512  
[www.morgantownwv.gov](http://www.morgantownwv.gov)

June 20, 2013

Matthew H. Smailes  
500 Elmina Street  
Morgantown, WV 26501

**RE: CU13-10 / Matthew H. Smailes / 260 Green Street  
Tax Map 29, Parcel 543**

Dear Mr. Smailes:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced conditional use petition for "Convenience Store, Neighborhood" use at 260 Green Street. The decision is as follows:

**Board of Zoning Appeals, June 19, 2013:**

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved Case No. CU13-10 as requested with the following conditions:
  - A. That to ensure the approved conditional "Neighborhood Convenience Store" use does not detract from the residential character of the neighborhood:
    - A limited line of groceries and household items intended for the convenience of the neighborhood must be offered as the establishment's foremost enterprise; and,
    - The subject establishment may not be open later than 9:00 PM; and,
    - The petitioner must provide, to the satisfaction of the City Engineer, and properly maintain an appropriate public trash receptacle, the area around which the petitioner shall be responsible for keeping free from litter.
  - B. That all regulated signage for the subject establishment must comply with related standards set forth in Article 1369 "Signs".
  - C. That the conditional use approval granted herein is specific to the petitioner and may not be transferred without the prior approval of the Board of Zoning Appeals

The approval of this conditional use is set to expire in twelve (12) months unless you can demonstrate that it has been acted upon as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the applicant.

Please note that requisite building permits and sign permits must be obtained prior to the commencement of any work.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and approval needs.

Respectfully,

A handwritten signature in cursive script, reading "Stacy Hollar".

Stacy Hollar  
Executive Secretary  
Development Services Department  
[shollar@cityofmorgantown.org](mailto:shollar@cityofmorgantown.org)

**ADDENDUM A – Approved Findings of Fact**  
**CU13-10 / Matthew Smailes / 260 Green Street**

---

**Finding of Fact No. 1** – Congestion in the streets is not increased, in that:

The proposed change in use from an “Upholstery/Interior Decorating Service” to a “Neighborhood Convenience Store” does not result in an increase in the intensity of use that requires consideration for the provision of on-site parking above that which is currently available as provided in Article 1365.02(B). The subject storefront has been previously occupied by commercial uses including, for several years, *Bailey’s Grocery*. The existing on-site and signed on-street parking appear to have sufficiently satisfied parking demand for the previous commercial uses.

**Finding of Fact No. 2** – Safety from fire, panic, and other danger is not jeopardized, in that:

All related Building Code and Fire Code provisions will be addressed as required by the Code Enforcement Division and the City Fire Marshal.

**Finding of Fact No. 3** – Provision of adequate light and air is not disturbed, in that:

No addition to the existing structure is proposed that would alter existing light distribution and air flow patterns within the general vicinity.

**Finding of Fact No. 4** – Overcrowding of land does not result, in that:

No addition to the structure is proposed that would result in increasing the mass, density, or intensity of the existing structure.

**Finding of Fact No. 5** – Undue congestion of population is not created, in that:

The historical trend of mixed-uses within the subject structure will continue and therefore not increase existing residential density.

**Finding of Fact No. 6** – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed “Neighborhood Convenience Store” does not appear to require public services or public facilities that are not already available to and serving the site and general vicinity.

**Finding of Fact No. 7** – Value of buildings will be conserved, in that:

Occupying the vacant storefront with the proposed “Neighborhood Convenience Store” should serve to reestablish the historical mixed-use activity and vitality that has been enjoyed within the immediate area and Greenmont Neighborhood.

**Finding of Fact #8** – The most appropriate use of land is NOT encouraged, in that:

The subject storefront was occupied for several years by *Bailey’s Grocery*, which is considered under the Planning and Zoning Code to be an identical land use.